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MORRISON & FOERSTER LLP 1650 TYSONS BOULEVARD SUITE 300 MCLEAN, VA 22102			PHAM, HUNG Q	
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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/040,379	KONDO ET AL.	
	Examiner HUNG Q. PHAM	Art Unit 2168	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 28 October 2005.

2a) This action is FINAL.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1,3-8,11,12,15-17,19,20 and 22 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1,3-8,11,12,15-17,19,20 and 22 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/28/2005 has been entered.

### ***Response to Arguments***

- Applicants amended claims 1, 7, 8, 11, 12, 15, and canceled claim 21 in the amendment filed on 10/28/05. The previous rejections under 35 U.S.C. 112, first and second paragraph, have been withdrawn.
- Applicant's arguments filed 10/28/2005 have been fully considered but they are not persuasive.

As argued by applicants at page 9 lines 7-10 and 18-21 of the Remarks:

- (1) *The independent claims 1, 7, 8, 11, 12, 15 and 22 have been amended to recite the graphical comparison of retrieval key images and images stored in an image database in order to determine if any of the images contain facial images analogous to the facial image data used to create the retrieval key images. Kinjo does not disclose or suggest such a feature.*
- (2) *Furthermore, applicants have amended the independent claims to recite selecting facial image data by selecting a point in an image, determining if the point is part of a facial image and then*

*selecting the facial image, wherein these steps are performed contemporaneously. No such features are disclosed or suggested by Kinjo.*

Examiner respectfully disagrees.

(1) The Kinjo technique of comparison is *graphical comparison*. As shown in FIG. 13, designated patterns of an image are captured at block 201, an original image from database is capture at block 203, the designated patterns of query image is compared with the original image at block 204. Thus, The Kinjo technique of comparison is *graphical comparison*.

(2) In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., *selecting the facial image*) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Kinjo teaches the claimed *selecting facial image data by selecting a point in an image, determining if the point is part of a facial image*.

<i>selecting facial image data by selecting a point in an image,</i>	As in FIGS. 1 and 2, and at Col. 10, Lines 44-51, Kinjo teaches that predetermined specific geometric figure, e.g., circle, is extracted by using a mouse.  As seen, by using a mouse to extract a circle, a starting point must be selected and the starting
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	<p>point is contained in the image, e.g., FIG. 1.</p> <p><i>determining if the point is part of a facial image.</i></p> <p>As further disclosed by Kinjo at Col. 11, Lines 1-14, as in FIG. 3, error is detected if the drawing figure does not match with the predetermined specific figure.</p> <p>Thus, by drawing a circle to extract the facial image, the drawing circle that includes the starting point is determined if it matches with the predetermined circle represents the <i>facial image</i>. In other words, this technique performs the claimed <i>determining if the point is part of a facial image</i>.</p>
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In view of the above, the examiner contends that the claimed *selecting facial image data by selecting a point in an image, determining if the point is part of a facial image* is taught by Kinjo.

### ***Claim Objections***

Claims 7 and 22 are objected to because of the following informalities: *said extracted designated facial image* as in claim 7 (*designated facial image data* was extracted in the step of extracting), and *a facial image* at line 6 of claim 22 (“facial image” at line 5 is the “facial image” at lines 4 and 5, “the facial image” is suggested). Appropriate correction is required.

***Duplicate Claims, Warning***

Applicant is advised that should claims 11 and 12 be found allowable, claims 1, 7, 8, 15 and 22 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

**Claims 1, 7, 8, 11, 12, 15 and 22 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.**

As in claim 1, the claimed *determining if the selected point is included in a portion of the image that is facial image data, designating the facial image data comprising the selected point as designated facial image*

*data when the point is selected, if the selected point is determined to be within a portion of the image that is facial image data; extracting the designated facial image data from the images when it is determined that the selected point is within a portion of the image that is facial image data* WAS not described in the specification.

As in claim 7, the claimed *selecting a point in at least one of a plurality of images registered in the image database; determining if the selected point is part of a facial image when the point is selected; designating the facial image as designated facial image data if the point is part of a facial image; extracting the designated facial image data when it is determined that the selected point is part of a facial image* WAS not described in the specification.

As in claim 8, the claimed *determining that facial image data comprises the selected point, and the facial image data is extracted when the point is selected* was not described in the specification.

As in claim 11, the claimed *determining if a facial image comprises the selected point when the point is selected; designating the facial image as designated facial image data if the point is part of a facial image; extracting the designated facial image data from a plurality of items of image data registered in the image database when it is determined that the selected point is part of a facial image* WAS not described in the specification.

As in claim 12, the claimed *determining that facial image data comprises the selected point, and the facial image data is extracted when the point is selected* was not described in the specification.

As in claim 15, the claimed *determining if a facial image comprises the selected point when the point is selected; designating the facial image as designated facial image data if the point is part of a facial image; extracting the designated facial image data from a plurality of items of image data registered in the image database when it is determined that the selected point is part of a facial image* was not described in the specification.

As in claim 22, the claimed *determining that a facial image comprises the selected point, and the facial image is extracted when the point is selected* was not described in the specification.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 4, 5 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

Claim 4 recites the limitation *said more than one designated facial image*. There is insufficient antecedent basis for this limitation in the claim.

Claim 5,

- the clause *said designated retrieval key image* for retrieving references to at least two “designated retrieval key images” as in claim 4 and claim 1. It is unclear what item is being referenced;
- the clause *said retrieval key image* for retrieving references to at least two “retrieval key image” as in claim 4 and claim 1. It is unclear what item is being referenced.

Claim 11 recites the limitation *the stored extracted image data* in the step of designating a retrieval key image. There is insufficient antecedent basis for this limitation in the claim.

#### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

**Claims 1, 8, 12 and 22 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.**

As set forth in MPEP 2106 (IV) (B) (2) (a):

*A machine is "a concrete thing, consisting of parts or of certain devices and combinations of devices." Burr v. Duryee, 68 U.S. (1 Wall.) 531, 570 (1863).*

...

*If a claim defines a useful machine or manufacture by identifying the physical structure of the machine or manufacture in terms of its hardware or hardware and software combination, it defines a statutory product. See, e.g., Lowry, 32 F.3d at 1583, 32 USPQ2d at 1034-35; Warmerdam, 33 F.3d at 1361-62, 31 USPQ2d at 1760.*

Claims 1, 8, 12 and 22 are apparatus claims, e.g., image data retrieval apparatus, but the recited elements of claims 1, 8, 12 and 22 are software. Thus, claims 1, 8, 12 and 22 are directed to software *per se*, and non-statutory.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1, 3-8, 11, 12, 15-17, 19, 20 and 22 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Kinjo [USP 6,813,395 B1].**

Regarding claim 1, Kinjo teaches *an image data retrieval apparatus for retrieving desired image data from an image database having a plurality of images registered therein* (Col. 10, Lines 34-39),

*wherein at least one of the images comprises facial image data* (FIG. 1, item 12). The Kinjo apparatus includes:

*an extractor for*

*selecting a point contained in at least one of said images* (FIGS. 1 and 2, Col. 10, Lines 44-51,

Kinjo teaches that predetermined specific geometric figure, e.g., circle, is extracted by using a mouse. As seen, by using a mouse to extract a circle, a starting point must be selected and the starting point is contained in the image, e.g., FIG. 1),

*determining if the selected point is included in a portion of the image that is facial image data* (Col. 11, Lines 1-14, as in FIG. 3, error is detected if the drawing figure does not match with the predetermined specific figure. Thus, by drawing a circle to extract the facial image as *facial image data*, the drawing circle that includes the starting point is determined if it matches with the predetermined circle represents the *facial image data*),

*designating the facial image data comprising the selected point as designated facial image data when the point is selected, if the selected point is determined to be within a portion of the image that is facial image data* (if the selected point is determined to be within a portion of the image that is facial image data as discussed above, Kinjo discloses the facial image as *facial image data* is designated as *designated facial image data when the point is selected* at Col. 10, Lines 39-51), and

*extracting the designated image data from the at least one of said images when it is determined that the selected point is within a portion of the image that is facial image data* (when it is determined that the selected point is within a portion of the image that is facial image data as discussed above, Kinjo discloses the designated facial image as *designated facial image data* is extracted from the at least one of said images at Col. 10, Lines 45-51 and Col. 13, Lines 16-40);

*a retrieval key image designator for designating said extracted facial image data as a retrieval key image*  
(Col. 13, Lines 45-54);

*a retriever for graphically comparing said retrieval key image to at least one other image in the image database and retrieving from said image database an image containing facial image data that is identical or analogous to said retrieval key image based on said graphically comparison* (Col. 13, Lines 50-65).

Regarding claim 7, Kinjo teaches an image data retrieval apparatus and program for retrieving desired image data from an image database (Col. 10, Lines 34-39). The Kinjo program includes the steps of:

*selecting a point in at least one of a plurality of images registered in the image database (a plurality of images registered in the image database* is disclosed at Col. 10, Lines 34-39. As in FIGS. 1 and 2, Col. 10, Lines 44-51, Kinjo teaches that predetermined specific geometric figure, e.g., circle, is extracted by using a mouse. As seen, by using a mouse to extract a circle, a starting point must be selected and the starting is contained in the image, e.g., FIG. 1);

*determining if the selected point is part of a facial image when the point is selected* (Col. 11, Lines 1-14, as in FIG. 3, error is detected if the drawing figure does not match with the predetermined specific figure. Thus, by drawing a circle to extract the facial image, the drawing circle that includes the starting point is determined if it matches with the predetermined circle represents the *facial image*);

*designating the facial image as designated facial image data if the point is part of a facial image (if the point is part of a facial image* as discussed above, Kinjo discloses the facial image is designated as *designated facial image data* at Col. 10, Lines 39-51);

*extracting the designated facial image data when it is determined that the selected point is part of a facial image (when it is determined that the selected point is part of a facial image as discussed above, Kinjo discloses the designated facial image as *designated facial image data* is extracted at Col. 10, Lines 45-51 and Col. 13, Lines 16-40);*

*designating said extracted designated facial image as a retrieval key image (Col. 13, Lines 45-54); graphically comparing said retrieval key image to at least one other image and retrieving from said image database an image containing a facial image identical or analogous to said retrieval key image based on said graphical comparison (Col. 13, Lines 50-65).*

Regarding claim 8, Kinjo teaches an image data retrieval apparatus and program for retrieving desired image data from an image database (Col. 10, Lines 34-39). The Kinjo apparatus includes:

*a retrieval key image extractor for extracting facial image data from said plurality of items of image data registered in said image database (Kinjo discloses images as *image data* is stored in database at Col. 10, Lines 36-39. Kinjo further discloses a circle as in FIG. 3 as *facial image data* from facial image, mountain, building of FIG. 1 as *said plurality of items of image data* is extracted at Col. 10, Lines 45-51 and Col. 13, Lines 16-40);*

*wherein said facial image data is selected by selecting a point within an item of image data (within an item, e.g., facial image of FIG. 1, of *image data*, e.g., FIG. 1, Kinjo teaches that predetermined specific geometric figures, e.g., circle, is extracted by using a mouse at FIGS. 1 and 2, Col. 10, Lines 44-51. As seen, by using a mouse to extract a circle as *facial image data*, a starting point must be selected and the starting point is within an item of *image data*, e.g., facial image of FIG. 1) and*

*determining that facial image data comprises the selected point* (Col. 11, Lines 1-14, as in FIG. 3, error is detected if the drawing figure does not match with the predetermined specific figure. Thus, by drawing a circle to extract the facial image, the drawing circle that includes the starting point is determined if it matches with the predetermined circle represents the *facial image data*), and *the facial image data is extracted when the point is selected* (*when the point is selected* as discussed above, Kinjo discloses the circle as *facial image data* is extracted at Col. 10, Lines 45-51 and Col. 13, Lines 16-40);

*a storage for storing said extracted facial image data therein* (Col. 12, Lines 42-52);

*a retrieval key image designator for designating a retrieval key image from the stored extracted facial image data* (Col. 13, Lines 16-25, Lines 45-54);

*a retriever for graphically comparing said designated retrieval key image to more than one item of image data and retrieving from said image database more than one item of image data containing facial image data identical or analogous to said retrieval key image based on said graphical comparison* (Col. 13, Lines 50-65).

Regarding claim 11, Kinjo teaches an image data retrieval apparatus and program for retrieving desired image data from an image database (Col. 10, Lines 34-39). The Kinjo program includes the steps of:

*selecting a point contained in at least one of a plurality of items of image data registered in the image database* (Kinjo discloses images as *image data* is stored in database at Col. 10, Lines 36-39, Kinjo further discloses that *in at least one of a plurality of items*, e.g., facial image of FIG. 1, *of image data*, e.g., FIG. 1, designated searching patterns, e.g., a circle represents facial

image, can be implemented by using a mouse at Col. 10, 39-45. As seen, by using a mouse to designate a searching pattern, a starting point must be selected and the starting point is contained in *an item of image data*, e.g., facial image of FIG. 1);

*determining if a facial image comprises the selected point when the point is selected* (Col. 11, Lines 1-14, as in FIG. 3, error is detected if the drawing figure does not match with the predetermined specific figure. Thus, by drawing a circle to extract the facial image, the drawing circle that includes the starting point is determined if it matches with the predetermined circle represents the *facial image*);

*designating the facial image as designated facial image data if the point is part of a facial image (if the point is part of a facial image* as discussed above, Kinjo discloses the facial image is designated as *designated facial image data* at Col. 10, Lines 39-51);

*extracting the designated facial image data from a plurality of items of image data registered in the image database when it is determined that the selected point is part of a facial image (when it is determined that the selected point is part of a facial image* as discussed above, Kinjo further discloses the designated facial image as *designated facial image data* is extracted *from a plurality of items of image data registered in the image database* at Col. 10, Lines 45-51 and Col. 13, Lines 16-40);

*storing in a storage said extracted designated facial image data* (Col. 12, Lines 42-52);  
*designating a retrieval key image from the stored extracted image data* (Col. 13, Lines 16-25, Lines 45-54);

*graphically comparing said designated retrieval key image to at least one other item of image data and retrieving from said image database more than one item of image data that contains a facial image identical or analogous to said retrieval key image based on said graphical comparison* (Col. 13, Lines 50-65).

Regarding claim 12, Kinjo teaches an image data retrieval apparatus and program for retrieving desired image data from an image database (Col. 10, Lines 34-39). The Kinjo apparatus includes:

*a retrieval key image extractor for extracting facial image data from said plurality of items of image data registered in said image database* (Kinjo discloses images as *image data* is stored in database at Col. 10, Lines 36-39. Kinjo further discloses a circle as in FIG. 3 as *facial image data from facial image, mountain, building of FIG. 1* as *said plurality of items of image data* is extracted at Col. 10, Lines 45-51 and Col. 13, Lines 16-40),

*wherein said facial image data is selected by selecting a point within at least one of the items of image data (within at least one of the items, e.g., facial image of FIG. 1, of image data, e.g., FIG. 1,* Kinjo teaches that predetermined specific geometric figures, e.g., circle, is extracted by using a mouse at FIGS. 1 and 2, Col. 10, Lines 44-51. As seen, by using a mouse to extract a circle as *facial image data*, a starting point must be selected and the starting point is within *an item of image data*, e.g., facial image of FIG. 1) and

*determining that facial image data comprises the selected point* (Col. 11, Lines 1-14, as in FIG. 3, error is detected if the drawing figure does not match with the predetermined specific figure. Thus, by drawing a circle to extract the facial image, the drawing circle that includes the starting point is determined if it matches with the predetermined circle represents the *facial image data*), and

*the facial image data is extracted when the point is selected (when the point is selected as discussed above, Kinjo discloses the circle as *facial image data* is extracted at Col. 10, Lines 45-51 and Col. 13, Lines 16-40);*

*a storage for storing extracted facial image data from at least two items of image data therein* (Col. 12, Lines 42-52);

*a retrieval key image designator for designating more than one retrieval key image from the stored extracted facial image data* (Col. 13, Lines 16-25, Lines 45-54);

*a retriever for graphically comparing said more than one designated retrieval key images to more than one item of image data and retrieving from said image database image data containing an image identical or analogous to said retrieval key image* (Col. 13, Lines 50-65).

Regarding claim 15, Kinjo teaches an image data retrieval apparatus and program for retrieving desired image data from an image database (Col. 10, Lines 34-39). The Kinjo apparatus includes:

*selecting a point contained in at least one of a plurality of items of image data registered in the image database* (Kinjo discloses images as *image data* is stored in database at Col. 10, Lines 36-39, Kinjo further discloses that *in at least one of a plurality of items*, e.g., facial image of FIG. 1, *of image data*, e.g., FIG. 1, designated searching patterns, e.g., a circle represents facial image, can be implemented by using a mouse at Col. 10, 39-45. As seen, by using a mouse to designate a searching pattern, a starting point must be selected and the starting point is contained in *an item of image data*, e.g., facial image of FIG. 1);

*determining if a facial image comprises the selected point when the point is selected* (Col. 11, Lines 1-14, as in FIG. 3, error is detected if the drawing figure does not match with the predetermined specific figure. Thus, by drawing a circle to extract the facial image, the drawing circle that includes the starting point is determined if it matches with the predetermined circle represents the *facial image*);

*designating the facial image as designated facial image data if the point is part of a facial image (if the point is part of a facial image as discussed above, Kinjo discloses the facial image is designated as designated facial image data at Col. 10, Lines 39-51);*

*extracting the designated facial image data from a plurality of items of image data registered in the image database when it is determined that the selected point is part of a facial image (when it is determined that the selected point is part of a facial image as discussed above, Kinjo further discloses the designated facial image as designated facial image data is extracted from a plurality of items of image data registered in the image database at Col. 10, Lines 45-51 and Col. 13, Lines 16-40);*

*storing in a storage extracted facial image data from more than one of said plurality of items of image data (Col. 12, Lines 42-52);*

*designating more than one retrieval key image from the stored extracted facial image data (Col. 13, Lines 16-25, Lines 45-54);*

*graphically comparing said more than one designated retrieval key image to more than one item of image data and retrieving from said image database items of image data containing a facial image identical or analogous to said retrieval key image based on said graphical comparison (Col. 13, Lines 50-65).*

Regarding claim 22, Kinjo teaches an image data retrieval apparatus for retrieving desired image data from an image database (Col. 10, Lines 34-39). The Kinjo apparatus includes:

*an extractor for extracting a facial image from said image data registered in said image database* (Kinjo discloses images as *image data* is stored in database at Col. 10, Lines 36-39. Kinjo further discloses a circle as *facial image* is extracted at Col. 10, Lines 45-51 and Col. 13, Lines 16-40),

*wherein said facial image is selected by selecting a point within the image data (within the image data, e.g., FIG. 1, Kinjo teaches that predetermined specific geometric figures, e.g., circle, is extracted by using a mouse at FIGS. 1 and 2, Col. 10, Lines 44-51. As seen, by using a mouse to extract a circle as *facial image*, a starting point must be selected and the starting point is within *image data*, e.g., FIG. 1) and determining that a facial image comprises the selected point (Col. 11, Lines 1-14, as in FIG. 3, error is detected if the drawing figure does not match with the predetermined specific figure. Thus, by drawing a circle to extract the facial image, the drawing circle that includes the starting point is determined if it matches with the predetermined circle represents the *facial image*), and the facial image is extracted when the point is selected (when the point is selected as discussed above, Kinjo discloses the circle as *facial image* is extracted at Col. 10, Lines 45-51 and Col. 13, Lines 16-40); a retrieval key image designator for designating said extracted facial image as an image serving as a retrieval key (Col. 10, Lines 39-51); a retriever for using said retrieval key image to retrieve from said image database image data containing facial images identical or analogous to said retrieval key image, wherein said retriever graphically compares said retrieval key image to at least one other item of image data registered in the image database to identify images having facial images identical or analogous to said retrieval key image (Col. 13, Lines 50-65).*

Regarding claim 3, Kinjo teaches all the claim subject matters as discussed above with respect to claim 1, Kinjo further discloses the step of *designating more than one said retrieval key image* (FIG. 2, Col.10, Lines 39-67).

Regarding claim 4, Kinjo teaches all the claim subject matters as discussed above with respect to claim 1, Kinjo does not explicitly discloses the step of *extracting more than one designated facial from said images in said image database for storage and designating a desired retrieval key image from said more than one designated facial image*. However, TABLE 1 is the database that contains designated facial images (Col. 14, Lines 46-55), and if another figure contains another person, more than designated facial images are extracted as discussed in claim 1 for storing in TABLE 1, but only one retrieval key for a particular figure is designated for searching. It would have been obvious for one of ordinary skill in the art at the time the invention was made to include the step of extracting more than one designated facial image but only one retrieval key image is designated for searching in order to reuse calculated data.

Regarding claim 5, Kinjo teaches all the claim subject matters as discussed above with respect to claim 4, Kinjo further discloses the claimed *retriever uses said designated retrieval key image to retrieve more than one image containing facial image data identical or analogous to said retrieval key image* (FIG. 5, Col. 13, Lines 50-65).

Regarding claim 6, Kinjo teaches all the claim subject matters as discussed above with respect to claim 4, Kinjo further discloses the step of *designating more than one retrieval key image* (Col. 13, Lines 16-25, Lines 45-54).

Regarding claim 16, Kinjo teaches all of the claimed subject matter as discussed above with respect to claim 1, Kinjo further discloses

*an image obtainer for obtaining information corresponding to an image* (Col. 12, Lines 40-47);  
*a table for having recorded therein said information and an image serving as a retrieval key, correlated with each other* (TABLE 1, Col. 13);  
*a converter for referring to said table to convert said information to a retrieval key image* (Col. 12, Line 47-Col. 13, Line 15).

Regarding claim 17, Kinjo teaches all of the claimed subject matter as discussed above with respect to claim 16, Kinjo further discloses the technique of *obtaining more than one item of information* (Col. 12, Lines 40-47).

Regarding claim 19, Kinjo teaches all of the claimed subject matter as discussed above with respect to claim 18, Kinjo further discloses the technique of *obtaining information in a form of a name of a person* (Col. 12, Lines 23-35).

Regarding claim 20, Kinjo teaches all of the claimed subject matter as discussed above with respect to claim 7, Kinjo further discloses:

*obtaining information corresponding to an image* (Col. 12, Lines 40-47);  
*converting said information to a retrieval key image with reference to a table having recorded therein said information and the retrieval key image, correlated with each other* (TABLE 1, Col. 12, Line 47-Col. 13, Line 15).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUNG Q. PHAM whose telephone number is 571-272-4040. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JEFFREY A. GAFFIN can be reached on 571-272-4146. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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HUNG Q PHAM  
Examiner  
Art Unit 2168

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